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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,181	12/07/2001	Robert Andre	AT-19.PCT/US	9542
466	7590	11/22/2005	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			AFTERGUT, JEFF H	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/914,181

Applicant(s)

ANDRE ET AL.

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 9, 11, 12, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over E.P. 897,174 in view of E.P. 911,803 and Newsam and optionally further taken with any one of Hom, Whitemore et al or Beggs for the same reasons as expressed in paragraph 2 of the Office action dated 2-14-05.

Regarding the placement of the cellular layer on the layer with the acoustical properties followed by the application of the reflector onto the cellular material, the applicant is referred to E.P. '174 which clearly depicted in Figures 7A-7E that following formation of the acoustical layers one skilled in the art would have emplaced the honeycomb layer 22 thereon followed by the placement of the reflector 24.

3. Claims 10, 13, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adey et al in view of Daunt et al, E.P. 911,803 and E.P. 897,174 optionally further taken with any one of Hom, Whitemore et al or Beggs et al for the same reasons as expressed in paragraphs 3 and 4 of the Office action dated 7-7-05.

It should be noted that the placement of the cellular material onto the acoustical layers followed by the placement of the reflector on the cellular assembly was suggested by E.P. '174 as noted above.

***Response to Arguments***

4. Applicant's arguments filed October 7, 2005 have been fully considered but they are not persuasive.

The applicant argues that none of the prior art taught the specific order of operation for the placement of the components on the mold to manufacture the acoustical attenuating panel. At the outset, the applicant is advised that unless the placement of the pieces materially altered the final assembly (i.e. unless applicant can show that assembly of the reflector to the cellular material prior to assembly with the acoustical layers) resulting in a materially different final product, the order of the bonding of the layers is immaterial to the final product claims (claims 17 and 18). In other words, applicant must show that a materially different product would have resulted by assembly of the layers in a different order (said another way, applicant has the burden to show that assembly of the reflector and cellular cores together prior to assembly of the acoustical layers thereon would have resulted in a materially different end product). Applicant has failed to satisfy this burden and therefore the product claims remain rejected.

Regarding the prior art rejection of claim 9 (as well as the rejection of the depending product made by this process), the applicant is advised that the reference to E.P. '174 (which is not addressed in any detail at all by applicant in the response other than to state that it does not cure the deficiencies of the other applied references) clearly established an order of build up of the panel which included the steps of placement of a fabric mesh material upon a mold, placement of a fiber reinforced resin impregnated porous structural acoustical component onto the mesh material, placement of a cellular material upon the acoustical component and placement of a reflector component upon the cellular component. The reference did fail to teach the placement

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of the resin impregnated filaments of the porous structural component upon the mold prior to the placement of the mesh material thereon, however as expressly suggested by E.P. '803, there were known benefits in the art for placement of the structural porous layer on the exterior of the assembly and to disposed the acoustical mesh directly below the same between the cellular core and the porous structural layer. Such advantages included the elimination of possible break off and damage to the panel as a result of losing portions of the exterior mesh material. The applicant is advised that one skilled in the art would have not only understood that placement of the resin impregnated fiber layer on the mold initially followed by placement of the mesh thereon and then the cellular layer and reflector would have been performed as an alternative to placement of the mesh on the mold first (as was performed by E.P. '174) but that the disposing of the structural layer on the exterior had the benefits identified by E.P. '803. The fact that E.P. '803 did not build the assembly in the same manner as claimed is immaterial to whether it would have been obvious to do so in E.P. '174. Applicant does not dispute the benefits defined by E.P. '803 nor does applicant assert that it was unobvious to switch the placement in E.P. '174 for some reason. One viewing the prior art would have been expected to perform the identified operation for the reasons given and would have been expected to have been successful in such an arrangement. The applicant is advised that obviousness is not based upon absolute certainty but rather is based upon whether one skilled in the art would have reasonably expected that the proposed combination would have worked. The applicant is advised that there is every reason to believe that the use of the structural porous exterior layer on the outside rather than just below the

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acoustic mesh material would have been expected to have performed adequately as expressed by E.P. '803 and there is no reason to believe one would not have obtained an adequate product when such a layer was laid upon the mold initially rather than as the second layer in the building of the panel on a mold surface as suggested by E.P. '174.

Regarding Newsam, the applicant focuses on the manner in which Newsam built the composite panel, however as expressed above the combination of E.P. '174 and E.P. '803 suggested the manner in which one would have assembled the layers and the order of the lay up on a mold. The reference to Newsam was cited to show that one skilled in the art would have utilized a non-metallic layer for the mesh material of the acoustic layer. This is undisputed by applicant as an alternative to a metal mesh material.

Regarding Hom, Whitemore, and Beggs, these references were added as optional to show that one skilled in the art would have known to employ an autoclave to assemble the layers together whereby heat and pressure was applied to the assembly in order to bond the layers together. The applicant doesn't dispute the same and therefore, it would have been within the purview of the ordinary artisan to utilize a conventionally known autoclave to assemble the layers of the panel together. It should be noted that claim 9 doesn't require removal from the mold prior to introduction in the autoclave as argues by applicant. Additionally, to leave the lay up on a mold during the autoclaving would have been within the purview of the ordinary artisan.

The applicant argues that the references to Adee and Daunt (note that E.P. '174 is also discussed in the same manner here but it is discussed in detail above) do nothing to improve the rejection. The references to Adee and Daunt were cited to show the manner in which one skilled in the art would have formed the structural layer prior to forming the remainder of the assembly. The applicant does not dispute the teachings of these references and therefore it is believed that the applicant is in agreement with the teachings of the same.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

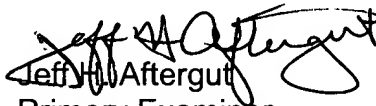
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeff H. Aftergut  
Primary Examiner  
Art Unit 1733

JHA  
November 18, 2005